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## Faculty Affairs Committee Minutes of the Academic Senate 2012-09-27

University of Dayton. Faculty Affairs Committee

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Approved

## Faculty Affairs Committee of the Academic Senate

### Minutes

09-27-12, 9:00-10:30 AM, RL 205

Present: John Clarke, Corinne Daprano (from 10:10), Ralph Frasca, Harry Gerla, Sheila Hassell Hughes, Emily Hicks, Kevin Kelly, Carissa Krane, Caroline Merithew, Don Shimmin, Kathy Webb (to 9:50)

Absent: Partha Banerjee, Pat Donnelly, Art Jipson, Paul McGreal, Kim Trick, students

1. Sheila Hassell Hughes agreed to record the minutes of the meeting.
2. The minutes of the previous three FAC meetings were approved.
3. Continued discussion of outside employment policy:

Gerla clarified an error in point 3 of the prior draft: the University is a single legal entity, therefore units cannot enter into contracts. He also pointed out that an automatic ban on consulting with a competitor of a contracted entity is problematic. There should not be a prohibition unless the University has a contract that specifies non-competition that would be breached by such an engagement. These situations are rare. Gerla's proposed revision addresses these issues.

Current Proposal:

*3. Many units of the University have contractual relationships with outside organizations. Full-time faculty may not perform teaching, research, consulting or other services on a regular basis for organizations that compete with the organizations that have contractual relationships with the units of the University without the approval of the Dean and Provost.*

Gerla's proposed revision:

*3. The University, through many of its units, has contractual relationships with outside organizations. Full-time faculty may not perform teaching, research, consulting or other services on a regular basis for organizations that compete with parties that have contractual relationships with the University, if such teaching, research, consulting or other services would cause the University to be in violation of contractual obligations or applicable statutes or regulations.*

Frasca suggested insertion of "knowingly" before "perform." Gerla reminded that Pat Donnelly says the requirement of permission addresses this. Shimmin asked about issue of doing taxes

for large number of individuals. Blanket permission could be sought because individuals would be highly unlikely to have contracts with the University.

It was agreed that the revised language is clearer and makes it easier to determine where a violation might occur.

Krane clarified that UDRI and PT faculty and staff are exempt and inquired whether a FT faculty member is only subject to policy if acting as an agent of the University? Gerla said "No." The restriction applies to any paid employment as described by the rest of the policy.

Frasca introduced his proposed revision, to be inserted after second sentence of second to last paragraph re: requests for permission.

Proposed revision:

*A blanket approval to perform consulting services in a faculty member's area of expertise for multiple unnamed clients within the time constraints discussed above may be requested.*

Gerla : the whole permission system is problematic because (1) there are no clear standards for when granted or not, and (2) there is no timeframe specified for a required response.

It was then clarified that FT faculty are still employees of the University even when not on contract over the summer

The following question was then posed: Is the real issue disclosure - is that a middle ground - rather than permission? What, it was asked, is the policy really designed to do?

Hughes : What about the faculty member who spends inordinate amount of time and energy on other work? Gerla pointed out s/he would be in violation of item number 4.

So disclosure in advance could address the issue, it was asserted.

Kelly: At previous institution, they did annual approvals for known work in advance, and then could approve new and/or special activities as they occurred.

Krane: Does it have to (should) promote professional growth of faculty member? What about bee-keeping?

Hughes: Retail work for extra money? Disclosure is more in keeping with faculty practices of autonomy than is permission.

Frasca: We should object with recommendations rather than re-write and wordsmith. Recommend we not vote to approve. If we approve, then we have ownership in /responsibility for the outcome.

Hughes: What problems, if any, could moving to disclosure create?

Kelly: How can we come to a shared understanding of faculty responsibility?

Merithew: Post-tenure review brings in one check.

Kelly: One can go a long time with a problematic situation before post-tenure review can be useful in any way.

Krane: Is outside employment falling under conflict of interest? If so, is it necessary?

Gerla: Some history for the document: part of the push was from HR, which has a staff outside employment policy that was revised to require permission.

Hicks: This process was proposed as an alternative to extending the staff policy to faculty as well.

Deprano: We already have a faculty policy.

Frasca: The existing policy has been applied. Apparently (because of lawyers?) we need a more objective policy.

Gerla: A product of business orientation of Trustees?

Clarke: Does this extend to *pro-bono* work? Last week, in the FAC discussion of an example of pro-bono work for Planned Parenthood, Donnelly had suggested insertion of language re: academic freedom.

Kelly: A significant percentage of faculty are not reviewed annually.

Clarke: Does conflict of interest require payment? The same work, paid or unpaid, could be considered in conflict.

Gerla: Maybe we should be looking at basic conflict of interest and conflict of commitment policies?

Clarke: UD has moved more toward a research institution. Many institutions celebrate faculty who run their own design firms – it's a mark of scholarly prestige. Does prestige make different rules?

Merithew: A process question about our options for consultative action: Do we vote in the Senate?

Deprano: ECAS made the decision that it is consultative but there was some disagreement about this. There is significant pressure from the Board to move forward on this.

Hicks: We were told we had to act by summer or we'd get the staff policy, but that was extended. We are encouraged to move this on by January.

Frasca: Which version do we bring to Senate if we can't reach agreement with the administration? Can we vote on for a policy that won't actually be implemented?

Gerla: The Senate is free to speak and voice its opinion. We can say that we support or oppose.

Hughes: We seem to have 3 options: moving forward a compromised version, a recommended version, or a disputed version.

Kelly: To summarize, there are 4 issues to be addressed: (1) disclosure vs. approval; (2) allowance for extra employment only if tied to professional growth; (3) clearer articulation of conflict of interest/commitment issues, (4) academic freedom.

Another issue was added: (5) application to uncompensated work.

The AAUP statement on these issues was consulted by the administration in drafting the document.

The focus of the next meeting will be on the workload policy, because Pat Donnelly won't be in attendance.

Frasca: We should also allow a statement of concerns to go forward to the Senate along with the document.

Hicks: Here are our options: 1. We could send it to the Senate as is, with objections, for the October Senate meeting, or 2. We could continue to revise it to be more palatable and delay Senate review a little longer.

4. There was a motion (Merithew) to continue working on document to attempt to improve it. The motion was seconded (Gerla) and passed unanimously (vote: 9-0-0).

5. Discussion of next steps for revision:

**ACTION:** Send issues or proposed revisions to Pat and Emily for discussion at the Oct. 25 meeting.

Who will work on what until our next discussion of this on Oct. 25<sup>th</sup>.

- Hughes: question of employment for professional growth only
- Gerla: connecting to conflict of interest/commitment and how it relates as core issue
- Krane: disclosure vs. permission
- Merithew: financial compensation
- Clarke: academic freedom. Donnelly is also working on academic freedom.

6. The chair (Hicks) reminded the committee that the next FAC meeting will take place Friday, 10-12, in St. Mary's 113B, 10:30-12:00. The focus will be the workload guidelines.

The meeting adjourned at 10:30.

Respectfully submitted by Sheila Hassell Hughes